

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDVIN RUSIS, HENRY GERRITS, PHIL
MCGONEGAL, and DAVID HO ENG,
individually and on behalf of all other similarly
situated individuals,

Plaintiffs,
v.

INTERNATIONAL BUSINESS MACHINES
CORP.

Defendant.

1:18-cv-08434 (DAB)

DECLARATION OF MICHAEL NEUMAR

I, Michael Neumar, declare as follows:

1. I am currently employed by International Business Machines Corporation (“IBM” or the “Company”) as a Storage Systems Procurement Manager. I work in the storage procurement department, which is a part of the Global Procurement business unit within IBM’s Finance and Operations group (“F&O”). I currently work out of IBM’s offices in Raleigh, North Carolina. I have worked for IBM for over 35 years.

2. I make this declaration based on my personal knowledge and based on my familiarity with and personal review of IBM’s business records as described below. If called as a witness, I could and would competently testify to the facts contained herein.

3. I am currently 59 years old and am competent to make this declaration.

4. In my current role, I manage a team that consists primarily of Global Commodity Managers or “GCMs.” Prior to his separation from employment, Henry Gerrits was a GCM on my team.

5. My team is responsible for procuring OEM (original equipment manufacturer) storage units from third-party suppliers, which, once IBM's software is added by IBM's storage hardware brand, are then sold as a completed product to IBM's customers. Each GCM is responsible for procuring specific products within the storage hardware brand. In some instances, a particular storage product may be a part of a broader product family, with multiple GCMs covering the product family. In that capacity, GCMs' responsibilities include selecting suppliers, determining which suppliers provide the best products, negotiating pricing and contracts, working with suppliers and the hardware storage brand to bring the product to market on time, and driving down prices over time by managing the supplier relationship.

6. Prior to Mr. Gerrits's separation from IBM, I had ten employees on my team, all but three of whom were GCMs. The remaining team members performed related work, but had different responsibilities.

7. IBM uses "Bands" to classify jobs. Non-executive Bands run from 1 to 10, with 10 being the highest level. The GCMs on my team ranged from Band 6 through Band 9. Mr. Gerrits was a Band 9 GCM.

8. All GCMs, regardless of their band, are responsible for managing the procurement process. My expectations are different for lower-banded than higher-banded employees. Specifically, I expect Band 6 GCMs to execute on specific tasks under direction from me or other, more experienced team members. I expect higher-banded GCMs to exert influence and act strategically and thus go beyond the basic execution of tasks. Thus, Band 8 and Band 9 GCMs should demonstrate leadership and serve as change agents by driving strategy with respect to their products and contributing ideas to help transform the business for the future. This includes being able to advocate to and influence executives both internally and with our

suppliers. For example, Band 8 and Band 9 GCMs should propose strategies for leveraging supplier skills and resources to relieve burdens on our IBM development teams. Another example would be to influence the executives on the development teams at IBM storage hardware in terms of how they allocate their talent resources among developing new products as opposed to using existing common hardware across different businesses, which can encourage economies of scale and drive down costs overall.

9. Mr. Gerrits joined my team as a part of a reorganization in January 2018 and worked in our Raleigh office. He came from a related part of the procurement organization. Jeff Gerboth, another Band 9 GCM, joined my team at the same time as a part of the same reorganization.

10. While he was on my team, Mr. Gerrits was primarily responsible for our procurement from a specific supplier that provides various storage products, including a key product for IBM's Cloud Object Storage business.

11. In early 2018, my manager, Michael Meaden, informed me that we needed to reduce headcount on my team through a resource action, which is IBM's term for a reduction in force. I understood that the action was necessitated by budget cuts.

12. Mr. Meaden informed me that I would have to select two employees from my team for separation in the resource action. He did not give me any direction as to how I should go about selecting employees for separation.

13. After Mr. Meaden informed me of the reductions that would be necessary on my team, I attended a training session for managers tasked with making selection decisions. One of the topics covered during this training was regarding the different methodologies that may be used when conducting a resource action. On my team, regardless of who was selected, the work

of the selected employees would remain the responsibility of the team as a whole and would have to be spread out among the remaining members of the team. Accordingly, I concluded that the “staff reduction” methodology was the appropriate process to follow.

14. I also understood from my training that the first step under the staff reduction methodology was to define the “job group” from which the selections would be made. I decided to make the selections from the Band 8 and Band 9 GCMs, rather than Band 6 and Band 7 GCMs. I did this because the team as a whole was doing a fine job with its execution responsibilities, but the Band 8 and Band 9 GCMs were underperforming with respect to the higher level responsibilities that I expected of them. I, therefore, defined the job group to include the Band 8 and Band 9 GCMs on my team.

15. Once I defined a job group, I assessed the employees based on selection criteria pulled from the previous year’s performance evaluations, known as Checkpoint reviews. While I had not personally completed the performance evaluations of all of my team members given that some of them had recently joined my team in a reorganization, I found that the performance evaluations completed by previous managers were consistent with my experience managing my newer team members. I found that these Checkpoint-based assessments were consistent with my own assessments in terms of whether the employees were meeting the higher level responsibilities I expected of my Band 8 and Band 9 GCMs. Mr. Gerrits, for example, was not as proficient with respect to leadership qualities that I expected of him as a Band 9 GCM relative to others in the group. He had not demonstrated that he was someone whom I could call upon to influence executives in their decision-making or to influence the strategic direction of our team’s work.

16. Thus, I performed an overall assessment of whether each Band 8 or Band 9 GCM was a “high,” “medium” or “low” contributor. Based on his performance evaluation, I assessed Mr. Gerrits as a low contributor, given that he had the lowest ratings with respect to the selection criteria. As to the four remaining GCMs, I assessed two of them as medium contributors and two of them as high contributors.

17. Based on these relative assessments, I selected Mr. Gerrits and one of the medium contributors for selection in the resource action. Mr. Meaden approved the selections. Age played no role whatsoever in my selection of Mr. Gerrits in the resource action, nor was I pressured either directly or indirectly to make resource action decisions based on age.

18. I met with Mr. Gerrits in person to notify him of his selection. While he was understandably disappointed, he did not raise any concerns about discrimination.

19. Following his selection, Mr. Gerrits remained on my team for approximately three months. During this time, I encouraged him to focus his efforts on searching for a new position. I do not know one way or the other if Mr. Gerrits submitted applications to other positions at IBM.

20. When Mr. Gerrits left my team, his primary supplier relationship transitioned to Mr. Gerboth, who, as explained above, was another Band 9 GCM who joined my team around the same time as Mr. Gerrits.

21. This declaration is not intended to be a complete recitation of my knowledge of the details surrounding Mr. Gerrits’s employment with, or separation of employment from, IBM. I understand that Mr. Gerrits has submitted a sworn statement in this matter addressing his separation from employment at IBM. I have not reviewed Mr. Gerrits’s statement, nor is this

declaration intended to respond to each and every allegation contained in Mr. Gerrits's statement.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 22, 2019


Michael Neumar